

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



JAMES ERICH LEROY,

Plaintiff,

21-CV-105 (JLS) (LGF)

v.

AMEDISYS HOLDINGS LLC, d/b/a
Amedisys Home Health Services,

Defendant.

DECISION AND ORDER

Plaintiff James Erich Leroy (“Plaintiff”) commenced this action against Defendant Amedisys Holding LLC d/b/a Amedisys Home Health Services (“Defendant”)—alleging violations of the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991. Dkt. 1. On March 22, 2021, Defendant moved to compel arbitration and to stay the action pending completion of the arbitration. Dkt. 5. Judge Foschio¹ granted the motion to compel and stayed the action—however, nothing in the record indicates whether the parties ever engaged in arbitration. Dkt. 13. On February 22, 2022, Plaintiff’s attorney moved to withdraw as counsel, with Plaintiff’s consent. Dkt. 14. No new counsel has appeared on Plaintiff’s behalf.

¹ This Court referred the case to United States Magistrate Judge Leslie G. Foschio for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 7.

On August 9, 2022, Judge Foschio issued an Order to Show Cause (“OTSC”), ordering Plaintiff to show cause as to why the case should not be dismissed for failure to prosecute. Dkt. 17. To date, Plaintiff has not responded to the OTSC.

On July 2, 2024, Judge Foschio issued a Report and Recommendation (R&R) recommending that this Court dismiss the complaint for failure to prosecute. Neither party filed objections, and the time to do so has expired.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

The Court carefully reviewed the R&R and the relevant record. Based on that review, the Court accepts and adopts Judge Foschio’s recommendation. Thus, for the reasons stated above, and in the R&R, Plaintiff’s complaint is DISMISSED for failure to prosecute. The Clerk of Court is directed to close the case.

SO ORDERED.

Dated: August 26, 2024
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE